

United States Postal Service

§ 958.4

- 958.15 Post-hearing briefs.
- 958.16 Transcript of proceedings.
- 958.17 Initial decision.
- 958.18 Appeal of initial decision to Judicial Officer.
- 958.19 Form and filing of documents.
- 958.20 Service of notice of docketing and hearing, other documents.
- 958.21 Computation of time.
- 958.22 Continuances and extensions.
- 958.23 Settlement.

AUTHORITY: 39 U.S.C. 204; 39 U.S.C. 401; 39 U.S.C. 3001; 39 U.S.C. 3018.

SOURCE: 74 FR 18631, Apr. 24, 2009, unless otherwise noted.

§ 958.1 Purpose.

This part establishes the procedures governing the hearing and appeal rights of any person alleged to be liable for civil penalties, clean-up costs and/or damages for mailing hazardous materials and/or related violations under 39 U.S.C. 3018.

§ 958.2 Definitions.

As used in this part:

- (a) *Complaint* refers to the determination by the Determining Official that an individual has violated the prohibition against mailing hazardous materials and/or related violations under 39 U.S.C. 3018.
- (b) *Initial Decision* refers to the written decision which the Presiding Officer renders.
- (c) *Determining Official* refers to the Chief Postal Inspector or designee.
- (d) *Judicial Officer* refers to the Judicial Officer or Acting Judicial Officer of the United States Postal Service or designee within the Judicial Officer Department.
- (e) *Party* refers to the Postal Service or the respondent.
- (f) *Person* refers to any individual, partnership, corporation, association, or private organization.
- (g) *Presiding Officer* refers to an Administrative Law Judge designated by the Judicial Officer to conduct a hearing.
- (h) *Recorder* refers to the Recorder of the Judicial Office of the United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, Virginia 22201-3078.
- (i) *Representative* refers to an attorney or other advocate.

(j) *Respondent* refers to any person determined by the Determining Official to be liable for civil penalties, clean-up costs and/or damages for mailing hazardous materials and/or related violations under 39 U.S.C. 3018.

§ 958.3 Petition for hearing.

Within 30 days of being served the Postal Service's Complaint alleging liability under 39 U.S.C. 3018, the respondent may request a hearing by filing a written Hearing Petition with the Recorder. The respondent's Petition must include the following:

- (a) The words "Petition for Hearing Related to Prohibitions Regarding the Mailing of Hazardous Material" or other words reasonably identifying it as such;
- (b) The name of the respondent as well as his or her work and home addresses, and work and home telephone numbers; and other address and telephone number where the respondent may be contacted about the hearing proceedings;
- (c) The date on which the respondent received the Complaint issued by the Determining Official;
- (d) A statement indicating whether the respondent requests an oral hearing or a decision solely on the written record;
- (e) If the respondent requests an oral hearing, a statement proposing a city for the hearing site, with justification for holding the hearing in that city, as well as recommended dates for the hearing; and
- (f) A statement admitting or denying each of the allegations of liability made in the Complaint, and stating any defense on which the respondent intends to rely.

§ 958.4 Referral of complaint.

- (a) If the respondent fails to request a hearing within the specified period, the Determining Official shall transmit the Complaint to the Judicial Officer for referral to a Presiding Officer, who shall issue an Initial Decision based upon the information contained in the Complaint.
- (b) If the respondent files a Hearing Petition, the Determining Official, upon receiving a copy of the Petition,